

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

WAYNE SWARTZ and :
TRACY SWARTZ, his wife :
Plaintiff : No.: _____
v. :
SWIFT TRANSPORTATION CO., INC. : CIVIL ACTION - LAW
Defendant :
:

NOTICE OF REMOVAL

TO THE CLERK OF THE COURT:

Defendant Swift Transportation Co., Inc. (“Swift”), by and through their undersigned counsel, Stephen E. Geduldig, Esquire, Jeffrey T. McGuire, Esquire, and Pion, Nerone, Girman, Winslow & Smith, P.C., hereby submit the following Notice of Removal pursuant to 28 U.S.C. §1441 and remove the state court action described below to the United States District Court of the Middle District of Pennsylvania.

1. On August 19, 2020, Plaintiffs, Wayne Swartz and Tracy Swartz, commenced an action against Defendant “Swift”, by filing a Complaint in the Court of Common Pleas of Luzerne County, Pennsylvania, Docket No.: 2020-07464 (the “lawsuit”). A copy of Plaintiff’s Complaint is attached to this Notice of Removal as

Exhibit A.

2. Plaintiff states that he was injured in the truck delivery area behind Walmart Supercenter #1623 when the Defendant's driver abruptly grabbed the hose from Plaintiff's "hand and yanked on it to pull it closer to him which caused the Plaintiff to fall and twist his leg as he stepped away from the "Swift" driver so as not to get blood on himself." See **Exhibit A** at ¶19.

3. The Court of Common Pleas of Luzerne County is located within the territorial jurisdiction of the United States District Court for the Middle District of Pennsylvania. Accordingly, removal to this Court is proper pursuant to 28 U.S.C. § 1446(a).

4. Removal of the Lawsuit to this Court is proper under 28 U.S.C. § 1441(a) because this Court has original jurisdiction – specifically, diversity jurisdiction under 28 U.S.C. § 1332 – over Plaintiffs' claims.

5. Swift was served with the Complaint on August 26, 2020.

6. Accordingly, removal is being made within the time permitted by 28 U.S.C. §1446(b)(2)(B).

7. Defendant "Swift" asserts that complete diversity between Plaintiffs and Defendant exists for the reasons set forth below:

a. Per the Complaint, Plaintiffs are residents of Pennsylvania. See **Exhibit A**, Complaint, ¶ 1.

b. Per the Complaint, "Swift" is incorporated in Delaware with its corporate headquarters in Arizona however, it is both incorporated in Arizona

and has its principal place of business in Arizona. See Exhibit A, Complaint, ¶ 2.

8. The nature of the injuries alleged make it clear that the damages that Plaintiffs will seek will exceed the jurisdictional limit of \$75,000, as Plaintiffs plead ankle and knee injuries and past and future wage loss and medical expenses and pain and suffering, and it has been represented to Moving Defendant's counsel that Plaintiff is to be undergoing surgery on or about September 15, 2020.

9. For the reasons set forth above, removal of the lawsuit to this Court is just and proper.

10. Upon confirmation of filing and docketing with this Court, this Notice of Removal shall be provided to all parties, as well as the Court of Common Pleas of Luzerne County, in accordance with 28 U.S.C. § 1446(d).

11. In filing this Notice of Removal, Defendant does not waive any affirmative defenses it may assert in this action.

**PION, NERONE, GIRMAN,
WINSLOW & SMITH, P.C.**

/s/ Stephen E. Geduldig
STEPHEN E. GEDULDIG, ESQUIRE
Attorney I.D. No. 43530

/s/ Jeffrey T. McGuire
JEFFREY T. McGUIRE, ESQUIRE
Attorney I.D. No. 73617

**Attorneys for Defendant,
Swift Transportation Co., Inc.**

CERTIFICATE OF SERVICE

I, Jeffrey T. McGuire, Esquire, of the law firm of Pion, Nerone, Girman, Winslow & Smith, P.C., counsel for the Defendant, Swift Transportation Co., Inc., hereby state that a true and correct copy of the foregoing Notice of Removal was served upon all counsel of record via electronic mail on this date as follows:

Patrick J. Doyle, Esquire
Anzalone Law Offices, LLC
98 S. Franklin Street
Wilkes-Barre, PA 18701
(p) 570-825-2719
Patrick.Doyle@anzalonelaw.com
Attorney for Plaintiff

Respectfully submitted,

**PION, NERONE, GIRMAN,
WINSLOW & SMITH, P.C.**

Date: 9/10/20

/s/ Jeffrey T. McGuire
JEFFREY T. McGUIRE, ESQUIRE
Attorney I.D. No. 73617